

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DANNY R. CAMPBELL,)	
)	
Petitioner,)	
)	
v.)	CIV-16-530-R
)	
CARL BEAR, Warden,)	
)	
Respondent.)	

ORDER

Petitioner filed this action pursuant to 28 U.S.C. § 2254 seeking a writ of habeas corpus. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) the matter was referred to United States Magistrate Judge Bernard M. Jones for preliminary review. On May 31, 2016 Judge Jones issued a Report and Recommendation wherein he recommended that the petition be dismissed upon filing for lack of subject matter jurisdiction and that Mr. Campbell's motion seeking leave to proceed without prepayment of fees be denied as moot. The matter is currently before the Court on Plaintiff's timely objection to the Report and Recommendation which give rise to the Court's obligation to undertake a *de novo* review of those portions of the Report and Recommendation to which Plaintiff makes specific objection. Having conducted this review, the Court finds as follows.

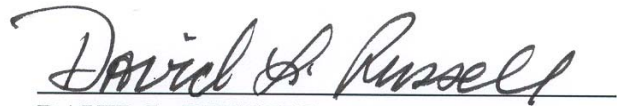
Judge Jones recommends dismissal of the instant petition for want of jurisdiction, to the extent it raises habeas corpus claims, because it appears that Mr. Campbell is attempting to pursue a second or successive habeas petition with regard to his conviction in CRF-78-2706. Because Mr. Campbell may only pursue a second or successive petition after first obtaining permission from the Tenth Circuit, which he has not done. Judge Jones recommended dismissal, rather than transfer of the petition to the Tenth Circuit, and the Court concurs fully with his recommendation in this regard.

To the extent Mr. Campbell attempts to challenge his conditions of confinement, Judge Jones

recommended dismissal of his claims because he sought relief under the laws of habeas corpus rather than pursuant to 42 U.S.C. § 1983. Judge Jones declines to construe the petition as a civil complaint seeking monetary relief, in part because Mr. Campbell did not submit the filing fee and he has previously incurred three strikes from this Court pursuant to 28 U.S.C. § 1915(g). Furthermore, the filings made by Mr. Campbell, including his petition and his objection, are largely nonsensical. Interspersed throughout his filings, including in the margins, are various equations utilizing letters and numbers and rendering the documents nearly illegible. Accordingly, the Court declines to convert the action which does not prejudice Mr. Campbell in any manner as he is free to initiate a new § 1983 action utilizing the proper forms and providing the filing fee or tendering an appropriate request for leave to proceed without prepayment of fees.

For the reasons set forth herein, the Report and Recommendation is hereby ADOPTED. To the extent this action is intended as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, the action is dismissed for want of jurisdiction. To the extent Plaintiff seeks relief based on the conditions of confinement the Court hereby dismisses the action without prejudice.

IT IS SO ORDERED this 24th day of June, 2016.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE